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Elimination of racism, racial discrimination, xenophobia and related intolerance

Contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report prepared by the Special Rapporteur of the Human Rights Council on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, on the implementation of General Assembly resolution 65/199.

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 65/199

Summary

The present report to the General Assembly is submitted pursuant to resolution 65/199 on the inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in which the Assembly requested the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to prepare a report on the implementation of the resolution, based on the views collected from Governments and non-governmental organizations.

Following a brief introduction on the content of resolution 65/199, the Special Rapporteur summarizes the contributions sent by 14 States on the implementation of the resolution, as well as views sent by five non-governmental organizations and the Office of the United Nations High Commissioner for Refugees pertaining to the issue raised in the resolution. The Special Rapporteur then puts forward a number of conclusions and recommendations.

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I. Introduction

1. In its resolution 65/199, the General Assembly, alarmed at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as similar extremist ideological movements, noted with concern, in paragraph 6, the increase in the number of racist incidents in several countries and the rise of skinhead groups, which had been responsible for many of those incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report (see A/65/323).

2. The General Assembly reaffirmed, in paragraph 7 of the resolution, that such acts might be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and that they might represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

3. In paragraph 9, the General Assembly stressed that such practices fuelled contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contributed to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and emphasized, in paragraph 10, the need to take the measures necessary to put an end to those practices.

4. In the context of the foregoing, the General Assembly, in paragraph 22, recalled the request of the Commission on Human Rights, in its resolution 2005/5, that the Special Rapporteur continue to reflect on the issue, make relevant recommendations in his future reports and seek and take into account the views of Governments and non-governmental organizations on that issue. In paragraph 23, it requested the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-sixth session and to the Human Rights Council, reports on the implementation of the resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 22 of the resolution.

5. In accordance with practice established in previous reports, the present report summarizes information received on activities undertaken by Member States pursuant and relevant to resolution 65/199. In preparing the report, the Special Rapporteur requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to send a note verbale on 11 May 2011 to Member States requesting information on the implementation of the resolution, to be received by 21 June 2011. The Special Rapporteur also requested the Office to send a letter on 11 May 2011 to non-governmental organizations requesting their views pertaining to the issues raised in the resolution, to be received by 21 June 2011.

6. Following the request for contributions, submissions had been received by 1 August 2011 from 14 Member States, namely, Andorra, Azerbaijan, Bahrain, Costa

Rica, Cuba, the Dominican Republic, Lebanon, Mauritius, Morocco, Portugal, the Russian Federation, Serbia, Spain and Turkey. As at 1 August 2011, the Special Rapporteur had received contributions from five non-governmental organizations, namely, the Bahá'í International Community, the Child Care Consortium, the European Network against Racism, Human Rights Watch and the United Nations Educational, Scientific and Cultural Organization (UNESCO) Centre of Catalonia. The Office of the United Nations High Commissioner for Refugees (UNHCR) also submitted its contribution. The information received is summarized in the present report; the original text of the contributions is available for consultation at the Secretariat.

II. Contributions received from Member States

A. Andorra

7. The Government indicated that the International Convention on the Elimination of All Forms of Racial Discrimination had entered into force in Andorra on 22 October 2006. The Government was preparing its first report on the implementation of the Convention. Furthermore, Andorra regularly received visits from the European Commission against Racism and Intolerance of the Council of Europe (ECRI). In 2007, following the visit of the Commission to Andorra, a report was published which contained some recommendations. The report is available online from www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Andorra/Andorra_CBC_fr.asp. The next assessment visit of ECRI to Andorra is scheduled from 14 to 16 September 2011.

B. Azerbaijan

8. In its reply, Azerbaijan reaffirmed its commitment to the provisions of resolution 65/199. Reference was made to the "National Security Conception of the Republic of Azerbaijan", adopted on 23 May 2007, which provides a number of provisions safeguarding national and religious tolerance.

9. Azerbaijan indicated that awareness-raising measures had been taken, in accordance with the National Action Plan on the Protection of Human Rights, for strengthening intercultural dialogue and interfaith cooperation, protecting and further developing the cultural heritage of ethnic minorities, prohibiting discrimination and promoting a culture of peace and tolerance in the districts and regions of Azerbaijan. In that respect, Azerbaijan further noted that awareness-raising measures had been taken in the field of religious tolerance among the population. Since 2007, 474 seminar-trainings had been held in various towns and regions of the country.

10. The Government stressed that all propaganda activities that promoted and incited racial and religious discrimination were prohibited in Azerbaijan. In that respect, the State Committee on Work with Religious Organizations of the Republic of Azerbaijan had been established to deal with the implementation of governmental policy in the field of religious activities in the country and to supervise the implementation of provisions of the legislation on religious organizations.

11. It was noted that an art festival of national minorities, "Azerbaijan — our native land", was held every two years. In its reply, the Government emphasized that Azerbaijan attached particular importance to human rights education. In that respect, the Ministry of Education of Azerbaijan regularly organized events aimed at strengthening respect for people representing different cultures, ethnicities and religions.

12. Finally, the Government stressed that in 2009, Azerbaijan had joined the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. A special action plan was being prepared in that regard. Moreover, the "Cultural diversity is our cultural identity" project would be implemented in 2011. In that context, various events would be organized, including seminars on the theme of national cultural solidarity in regions throughout the country, training for cultural workers, preparation of research work concerning the state of intercultural dialogue, publication of booklets and brochures reflecting the cultural diversity of the country, and exhibitions, concerts, competitions and other similar events.

C. Bahrain

13. In its reply, the Government referred to legislation which protects freedom of religion and belief. Bahrain noted that constitutional rights were guaranteed to all without discrimination, as provided in article 8 of the Constitution. Article 22 of the Constitution specifically protects freedom of religion. Reference was also made to the Penal Code. Article 172 of the Penal Code prohibits incitement to hatred against a group of people or its members; article 309 prohibits denigration or defamation of a religious community; and article 311 prohibits the printing or publishing of books that offend religion or religious symbols or traditions.

14. The Government indicated that Bahrain had taken legislative measures to prohibit the publication of racist thought and to counter discrimination and related violations of religious values and the constitutional principle of equality. For example, Law No. 47 (2002) regulating the media, printing and publishing, provided for freedom of expression as long as it did not provoke division or sectarianism; and Law No. 58 (2006) provided for the protection of society from terrorist activities and the strengthening of penalties for crimes related to religion if perpetrated through terrorist activities.

D. Costa Rica

15. In its reply, Costa Rica indicated its commitment to carry out the "Action Plan against Racism and Racial Discrimination". It was noted that the elaboration of the Action Plan was an inclusive and participative process, in which all social actors were included. The Government was aware that the fight against racism and racial discrimination was not an isolated duty of civil society, but it required a collective effort and responsibilities by the authorities. The Action Plan would become an important base and the focal point of human rights programmes in the country and would lead to the creation of the Inter-Institutional Commission for Human Rights. The Inter-Institutional Commission for Human Rights will be the body which takes forward the process of the elaboration and implementation of the National Action Plan.

16. With respect to measures taken to combat racism, racial discrimination, xenophobia and related forms of intolerance, the Government referred to the reinforcement of the National Plan against Racism and Racial Discrimination, the establishment of the Afro-Costa Rican National Commission in celebration of the International Year for People of African Descent, and the creation of the African Descent Studies Commission. Regarding measures taken to protect the rights of indigenous people, the Government made reference to the Indigenous Law of 1977, the existence of the National Commission for Indigenous Affairs, the establishment of the Indigenous Education Department in the Public Education Ministry, and the creation of the Indigenous Issues Prosecutor.

17. It was indicated that the Law on Migration and Aliens, which had been in effect since March 2010, guaranteed respect for the principle of equality and non-discrimination for migrant people and refugees. It contributed to generating tolerance and respect in the country and promoting the fight against xenophobia.

18. At the regional level, the Government noted that Costa Rica had been actively promoting the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance and contributing to the fight against racism, racial discrimination, xenophobia and related forms of intolerance in the framework of the regional body.

19. In the context of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, the Government indicated that on 21 March 2011, the International Day for the Elimination of Racial Discrimination had been commemorated in the Ministry of Foreign Affairs and Worship by recalling the celebration of the tenth anniversary of the Durban Declaration and Programme of Action.

E. Cuba

20. In its reply, Cuba noted its concern regarding the rise in crime and incitement to hatred based on race, nationality, ethnicity and religion at the hands of groups and political parties with racist, discriminatory, xenophobic and anti-migrant platforms, fundamentally in developed countries. It stated that all countries should reject and ban any ideologies, parties and political extremist, segregationist and nationalist organizations which promoted racism and xenophobia, and that organizations and parties of that kind should be banned by law in line with international legislation.

21. Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination and article 20, paragraph 2, of the International Covenant on Civil and Political Rights endorse the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination. Cuba reiterated the need to strengthen international cooperation in the promotion of the immediate withdrawal of all reservations to article 4 of the Convention on the Elimination of All Forms of Racial Discrimination and the consolidation of a universal prohibition on propaganda of a racist, nationalist or xenophobic nature, as well as any association based on those concepts.

22. Cuba expressed particular concern regarding the increase in attempts to revise the history of the Second World War, which negatively impacted the development of fair and mutually respectful dialogue between States as well as international

relations. Cuba noted the historical significance of the sixty-fifth anniversary of the end of the Second World War for peace-loving people and governments and affirmed that that event contributed to the consolidation of the ideals of peace and the deepening of understanding and trust between peoples. It noted that the new international system created after the end of the Second World War was one established on the basis of mutual respect, equal sovereignty of States, the rejection of the use of force, non-intervention in internal matters and fundamental principles which served as the basis of the United Nations. Cuba highlighted that those principles had constituted a legal and moral barrier against the attempts of powerful countries, in particular the United States of America, to impose their will on peoples and governments in the rest of the world.

23. Cuba indicated concern regarding the monopoly of the transnational media controlled by the industrialized North, which it considered presented three quarters of the world's population with only one view of the world and the events happening in it. Cuba also expressed its concern regarding the irresponsible use of the Internet as a means of disseminating propaganda. Cuba emphasized the need to strengthen international cooperation in the promotion of the elaboration of codes of ethics regarding the behaviour of international media, and especially regarding the operation of the Internet.

24. Cuba highlighted its concern in relation to the proliferation of discriminatory laws and policies regarding migrants, the adoption of antiterrorist legislation and the promotion of racist and xenophobic practices in the context of the so-called "war on terror" that it considered allowed for arbitrariness. Cuba stated that acts suffered by the migrant populations in industrialized countries constituted practices which exacerbated racism, discrimination and violations of their human rights such as the "Return Directive" and Law 1070 of the State of Arizona.

25. Cuba stated that since 11 September 2001, the incitement to racial and religious hatred had been exacerbated and had become an ideological tool used by certain developed countries, primarily the United States of America, in the name of the "war on terror". Cuba indicated that the attempts of the Government of the United States to impose a world-dominating dictatorship, under the guise of a supposed "war on terror", had negative and serious repercussions for the majority of the world's population, particularly for Arab and Muslim peoples, including those living in the United States. Furthermore, Cuba stated that the United States and European countries involved in the war on terror had established the practice of projecting a negative image of Islam through the media.

26. Cuba reiterated the need to strengthen international cooperation in the consolidation of the work in combating racism, xenophobia and all forms of discrimination, in particular within OHCHR.

F. Dominican Republic

27. In its reply, the Dominican Republic indicated that discrimination continued to hinder the full realization of human rights. Article 39 of the Constitution guaranteed equality for all and effective protection against discrimination. The Government noted that there was a close link between racism, racial discrimination, xenophobia and different forms of intolerance, on the one hand, and marginalization and social exclusion of vulnerable groups on the other.

28. In the Dominican Republic, all citizens were equal before the law. Equality was not limited to the legal or political framework but it was also extended to the social sphere. Article 11 of the Criminal Procedure Code establishes that judges and the public prosecutor's office should take into account the particularities of each case, and that they cannot base their decisions on the grounds of nationality, gender, race, religion or belief, political ideas, sexual orientation, economic or social position or any other condition with discriminatory implications.

29. The Government indicated that the challenges ahead were daunting and they demanded the determined action and the cooperation not only of the judicial instances but also of civil society. In accordance with Supreme Court resolution 1920 of 2003, the broad range of human rights was within the realm of the Constitution; therefore its application was of capital importance for members of the judiciary.

30. The elimination of all forms of existing discrimination contributed to maintaining society economically active and reinforced strategies which offered opportunities to migrants and other vulnerable groups. The judiciary of the Dominican Republic worked tirelessly to promote and maintain the ideals of equality, equity and non-discrimination.

G. Lebanon

31. In its reply, the Government indicated that the Constitution and national legislation provided the framework for the situation of migrant workers in Lebanon. Lebanon was also bound by relevant provisions of the International Covenant on Economic, Social and Cultural Rights, for example, articles 7 and 9. Moreover, specific provisions were set out in the Labour Law (although domestic workers were not covered by it) and the Law regulating the work of foreigners of 1963, as amended.

32. The Government stressed that Lebanese law did not contain any provisions discriminating against foreigners. It was indicated that there were two categories of migrant workers in Lebanon, those who worked in households or organizations and "artists", which refers to women working in bars or nightclubs. With respect to the second group, namely, the "artists", the existing immigration rules did not always provide sufficient protection of their rights.

33. Lebanon was studying the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in addition to the International Convention on the Elimination of All Forms of Racial Discrimination.

34. The Government indicated that there were several organizations that worked to improve the situation of foreigners. However, owing to the lack of appropriate regulation of the work of domestic workers, a number of violations had occurred. The fact that the level of pay of domestic workers depended on their nationality could also be considered discrimination, in addition to the retention of their passports by their employers and the physical and sexual violence they might face in the employing families. While the victims might in principle lodge a complaint with the court, their weak position and fear of their employers often prevented them from doing so.

II. Mauritius

35. In its reply, Mauritius indicated that section 3 of its Constitution provided that certain human rights and fundamental freedoms should exist without discrimination on the grounds of race, place of origin, political opinions, colour, creed or sex, but they were subject to respect for the rights and freedoms of others and for the public interest. Those rights and freedoms included the right to life, liberty, security of the person and the protection of the law; freedom of conscience, expression, assembly and association and freedom to establish schools; and the right of individuals to protection for the privacy of their home and other property and from deprivation of property without compensation. Moreover, section 16 of the Constitution specifically provided for protection from discrimination on the grounds of race, caste, place of origin, political opinions, colour, creed or sex. Reference was also made to section 11 of the Constitution, which provided for the protection of freedom of conscience.

36. Mauritius provided information about the National Human Rights Commission, which was empowered to inquire into complaints and review safeguards for the protection of human rights and factors or difficulties which inhibited the enjoyment of human rights. It was stated that, in addition to the normal channels of complaint through the police authorities, citizens might have recourse to the Office of the Ombudsman. Minor petitions relating to human rights might be forwarded to the Office of the Attorney General.

37. The Sex Discrimination Division of the National Human Rights Commission was empowered to receive and inquire into any written complaints regarding alleged infringements of the Sex Discrimination Act and to make recommendations in various fields, including employment and education.

38. Mauritius noted that the Equal Opportunities Act, which was not yet in force, covered the different aforementioned grounds of discrimination as well as age, pregnancy, mental and physical disability and sexual orientation in various areas. The Act also provided for the establishment of an equal opportunities commission and an equal opportunities tribunal.

39. The Truth and Justice Commission Act came into operation in 2009, on the day commemorating the abolition of slavery in Mauritius. The Act provided for the establishment of the Truth and Justice Commission, which had been constituted and consisted of Mauritian historians, academics and social workers.

40. It was stated that under the Criminal Code there were offences pertaining to discrimination on grounds of race or creed in general. In that respect, Mauritius referred to different sections of the Criminal Code, including section 282 relating to the offence of "stirring up racial hatred".

41. Finally, the Government of Mauritius indicated that the International Criminal Code Bill, which had already undergone a first reading in Parliament, was scheduled to undergo a second reading.

I. Morocco

42. In its reply, Morocco highlighted the efforts made by the departments of Justice, National Education and Culture and the Royal Institute for the Amazigh Culture in the implementation of General Assembly resolution A/65/199.

43. The Government stated that the Criminal Code prohibited discrimination based on the grounds of national or social origin, colour, sex, family situation, health, political opinion, labour union membership, as well as ethnicity, nationality, race and religion. Those provisions applied to both physical and moral persons. Morocco indicated that under Law No. 36-04 on political parties, political parties established on the basis of religion, language, ethnicity or region, or more generally on any discriminatory basis contrary to human rights standards, should be declared null and void. A reference was also made to the Law regulating the Entry and Stay of Foreigners in Morocco.

44. Morocco further highlighted the provisions of the new draft Constitution, which was submitted to referendum on 1 July 2011. In that regard, the Government stated that article 23 prohibited any incitement to racism, hatred and violence. The draft Constitution also provided that genocide, crimes against humanity, war crimes and all grave and systematic human rights violations were punishable by law. Article 30 stipulated that foreigners enjoyed the fundamental freedoms recognized to Moroccan citizens in conformity with the law.

45. The Ministry of National Education had elaborated a strategy which aimed at integrating the values of citizenship and human rights in schools. In that regard, the Government mentioned initiatives such as human rights training, regional observatories on violence in school, and the commemoration of national and international days, for human rights, history, tolerance, women and migrants. Morocco also stated that the Government had developed a comprehensive and integrated approach for the integration of a culture of human rights and citizenship in educational curricula as well as in the training courses of teachers. Reference was also made to the Sub-Commission of Values attached to the Commission of Evaluation and Validation, which assessed the content of educational curricula with respect to human rights and democratic principles such as tolerance, equality, equity, dignity, the right to difference, intercultural dialogue, international humanitarian law, and the fight against all forms of discrimination, including discrimination based on race, religion, ethnicity and sex. Measures taken to integrate a gender dimension into the educational policy and ensure equality in the access to education between girls and boys were further underlined.

46. Morocco stated that, in line with the 2008 Convention signed between the Ministry of National Education and the Consultative Council for Human Rights (now the National Council for Human Rights), a day of study had been organized with the support of the International Centre for Transitional Justice in 2010. The objective of the meeting was to develop a reflection on the issue of transitional justice in education. Recommendations were made in that context.

47. The Royal Institute for the Amazigh Culture had developed a strategy for the promotion of the cultural and linguistic rights of the Amazigh. Reference was made in that regard to the integration of the Amazigh into the education system; the media (press, radio and television); the organization of cultural manifestations as well as the support provided to the associations that promoted the Amazigh culture. A

specific reference was also made to the constitutional guarantee provided to the culture and language of the Amazigh people in the context of the constitutional reform in Morocco.

48. Finally, Morocco highlighted the key measures taken by the Ministry of Culture in the promotion of a culture of human rights and the raising of awareness about the importance of history and memory/remembrance.

J. Portugal

49. In its response, Portugal indicated that two national plans, namely the National Plan for Equality, Citizenship and Gender and the National Plan for the Integration of Immigrants, had been adopted to combat discrimination.

50. Portugal stated that article 13 of its Constitution prohibited discrimination based on ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation. Article 15 of the Constitution recognized the same rights and duties for foreigners, stateless persons and immigrants as Portuguese citizens. It was stated that racist organizations, as well as organizations that "display a fascist ideology", were prohibited by article 46, paragraph 4, of the Constitution. Reference was also made to articles 59, 8 and 16 of the Constitution.

51. According to the Criminal Code of Portugal, a racist act motivated by discrimination based on race, religion, gender or sexual orientation could be considered a punishable crime. Reference was made to articles 240 and 246 of the Criminal Code in that context. Racial motivation was considered an aggravating circumstance in crimes of homicide and offences to physical integrity. Furthermore, according to article 71 of the Criminal Code, discriminatory motivation was considered an aggravating factor by judges when determining the measure of penalty.

52. It was stated that other sanctions, such as fines and accessory penalties, could be imposed in cases of acts of discrimination. Complaints of such acts could be submitted to the Commission for Equality and against Racial Discrimination, which was chaired by the High Commissioner for Immigration and Intercultural Dialogue.

53. The Labour Code establishes a general framework for equal treatment in employment and occupations. The Legal Framework of Public Employment Labour Contract provides equal treatment in the public and private sectors. Under the Administrative Procedural Code, public authorities or institutions are forbidden to conduct discriminatory acts towards citizens. Complaints regarding such kinds of violations may be submitted to the Ombudsman. The Television Law provides that no elements of a programme shall incite to hatred, racism or xenophobia.

54. Portugal also referred to the Asylum Law, the Organic Law, the Television Law, the Publicity Code and the Law on preventive and punitive measures to be taken in case of violence associated with sport.

55. In order to fight against racism, human rights training was provided to all law enforcement officials, including magistrates, members of the police forces and public servants. Moreover, Portugal indicated that human rights issues had been included in the curricula of all professional training.

56. Finally, Portugal indicated that it had been cooperating with and contributing to the work of relevant regional and international bodies that combat racism, racial discrimination, xenophobia and other forms of intolerance.

K. Russian Federation

57. In its reply, the Russian Federation indicated that it was an integral part of its national governmental policies to adopt measures aimed at preventing and combating activities which incited social, racial and religious hatred, and at settling ethnic conflicts. The Government noted that the Ministry of Regional Development had consistently developed its activities aimed at promoting intercultural dialogue and combating racism, discrimination and intolerance in the framework of the governmental national policies. From 2008 to 2010, the Ministry of Regional Development had adopted a number of measures to combat ethnic and religious extremism and to prevent escalation of ethnic conflicts. Those measures had benefited from the assistance of the Office of the Prosecutor-General, the federal authorities, voluntary associations and religious organizations concerned. As part of its official government policy, the Ministry of Regional Development also undertook activities to prevent discrimination and inter-ethnic strife and combat the dissemination of racist ideas. In addition, a number of initiatives had been carried out jointly by the Ministry of Regional Development and other institutions, including awareness-raising campaigns, publications, media projects and sociological research.

58. The Government emphasized that the Advisory Council on the Affairs of Autonomous Ethnic Cultural Organizations held regular meetings to discuss the issue of prevention of extremist and inter-ethnic conflicts. The Advisory Council also addressed issues relating to national legislation in the area of inter-ethnic relations and undertook activities in the framework of implementation of the official national policy of the Russian Federation.

59. With support from the Ministry of Regional Development, a set of activities had been undertaken to raise awareness of the history and culture of different ethnic groups in the Russian Federation and increase the level of ethnic tolerance in society.

60. The Ministry of Education and Science had developed and approved Federal State education standards for primary general and basic general education, based on respect for moral and legal norms, respect for human dignity, and tolerance of other cultures. Cooperation had been fostered with various stakeholders in the framework of the project called "Implementation of measures on organizing systemic cooperation of educational institutions of general and professional character by the authorities, civil society and independent institutes with a view to preventing extremism among students". Moreover, the Government noted that a project called "Multicultural educational model as a basis for building a Russian civic identity among students in general education schools" had been undertaken to promote multicultural education.

61. Pursuant to Presidential decree No. 1316 of 6 September 2008, a department and additional sections had been established within the Ministry of Internal Affairs to combat extremism.

62. The Government indicated that, according to independent experts' evaluation, the level of racist violence and the number of violent crimes committed against foreigners had decreased in the Russian Federation. On 7 February 2011, the President of the Russian Federation had signed the Police Act, which entered into force on 1 March 2011. In accordance with that law, the police were responsible for preventing, detecting and suppressing extremist activities.

63. The Federal Act of 2002 sets out the main legal and organizational mechanisms to counter extremism. Article 1 of the Federal Act defines advocacy of exclusivity, superiority or inferiority on the basis of a person's social, racial, ethnic, religious or linguistic background as extremist activity. Article 282 of the Criminal Code of the Russian Federation criminalizes activities aimed at incitement of hatred on the basis of gender, race, ethnicity, language, origin, religious or social group in public or through the media.

64. The Ministry of Internal Affairs was also involved in combating extremist activities. In order to prevent extremist crimes, the organs of the Ministry monitored closely the political, cultural and sport events likely to generate inter-ethnic and inter-religious tension.

65. On a regular basis, working meetings were organized with the representatives of human rights defenders from the Sova Center for Information and Analysis, the Institute of Human Rights and the Moscow Bureau for Human Rights. Agreement had been reached on ensuring permanent monitoring of the information provided by mass media and the Internet.

66. The Government raised concern that extremist groups increasingly used the Internet to encourage membership among the youth. In that context, a set of measures had been taken by the Ministry of Internal Affairs to eliminate undesirable content which might incite extremism and xenophobia on the Internet as well as other publications, including audio and video materials. The number of prohibited extremist materials had exceeded 800. The Ministry of Internal Affairs worked to ensure the exchange of information among law enforcement agencies as well as among partners abroad through the Group of Eight (G-8) network which comprised more than 50 countries. In conformity with the order of the Ministry of Internal Affairs, a draft law had been prepared "On amendments in certain legislative acts of the Russian Federation", which purported to complete some provisions of the Criminal Code. One proposed amendment provided expressly for criminal responsibility with respect to crimes of an extremist character committed via information and telecommunication networks, including the Internet.

67. Taking into account the fact that many extremist websites were located abroad, the Government noted that the effectiveness of countering extremism depended on close cooperation with the law enforcement agencies of other countries, and called for the elaboration of a unified international instrument in that domain. In the context of the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Salvador, Brazil from 12 to 19 April 2010, the Russian Federation supported the elaboration of a United Nations convention against cybercrime.

68. Finally, the Government raised serious concerns regarding the situation of the Russian-speaking minorities in the Baltic States, including Latvia, Estonia and Lithuania.

L. Serbia

69. Serbia provided information about a decision of the Constitutional Court of the Republic of Serbia. The Court decides that the activity of the National Formation, a clandestine political party (political organization), shall be banned in conformity with the Constitution; the registration of the programme goals and/or the name of the organization shall be prohibited; the organization shall be prohibited from pursuing activity, promoting and spreading its programme goals and ideas, and State and other authorities and organizations shall be obliged to take measures within their competences and powers for the purpose of implementing this decision.

M. Spain

70. In its reply, Spain indicated that its Government had prioritized policies relating to the promotion of equality and the prevention of discrimination since 2004. The right to equality for all was enshrined in article 14 of the Spanish Constitution. Article 9.2 provided that public bodies had a positive obligation to promote equality. The Ministry of Health, Social Policy and Equality had been established for proposing and developing the Government's policy on equality and the prevention and elimination of all types of discrimination based on any social or personal conditions or circumstances.

71. The Council for the Promotion of Equal Treatment and the Prevention of Discrimination on the Basis of Racial or Ethnic Origin had taken on responsibilities of providing independent assistance to victims of discrimination, processing complaints, conducting studies and formulating recommendations on equal treatment and the prevention of discrimination based on racial and ethnic origin.

72. The first Action Plan for the Development of the Gypsy Population 2010-2012 had been approved by the Council of Ministers. That Action Plan aimed to promote new methods and forms of participation and social development for the gypsy population and to serve as an instrument to improve its social situation and living conditions.

73. In terms of legislative measures, Spain referred to the anti-discrimination provisions set out in its Penal Code since 1995, and the measures introduced in 2003 prohibiting discrimination based on ethnic or racial origin in relation to education, health, social services and benefits and housing. Legislative measures were in place prohibiting discrimination against foreigners and the formation of political parties with discriminatory motives.

74. Classes on the rights of citizens and human rights had been introduced at primary and secondary education levels. Legislative measures had been adopted to combat racism in sport, which was regulated by the State Commission against Violence, Racism, Xenophobia and Intolerance in Sport. A law regulating the prevention of such discrimination in sport had been passed in 2010.

75. The Government indicated that the Bill on Equal Treatment and Prevention of Discrimination had been passed by the Council of Ministers on 27 May 2011. That legislation had the objectives of preventing and eradicating any type of discrimination and protecting victims.

76. The legislation guarantees the right to equal treatment by defining protective and reparatory measures in line with recent jurisprudence. It provides for the prevention of discrimination, facilitates the adoption of preventive measures where discrimination takes place via electronic means or computer networks, and sets out sanctions and penalties for breaches of its terms as well as compensation to victims. It also provides for the establishment of a State Authority for Equality and the Prevention of Discrimination as an independent entity, which would provide assistance to those affected by discrimination.

77. Finally, Spain reaffirmed its commitment to the elimination of discrimination and its endeavour to guarantee the right to equal treatment and the prevention of discrimination.

N. Turkey

78. In its reply, Turkey reaffirmed its commitment to the fight against all forms of discrimination. It was recognized that the main responsibility lay with governments to safeguard and protect the rights of individuals against discriminatory acts and activities.

79. The Government indicated that acts of discrimination were prohibited and criminalized by law in Turkey. The principle of equality was enshrined in the Constitution. Reference was made to article 10 of the Constitution, which guaranteed equality to all individuals without any discrimination before the law, irrespective of language, race, colour, gender, political opinion, philosophical belief, religion or sect, or any such considerations.

80. The concept of citizenship, defined under article 66 of the Constitution, was based on the grounds of legal bonds without any reference to ethnic, linguistic or religious origin. The Government emphasized that non-discrimination among citizens on the grounds of ethnicity, religion or race was the main philosophy of Turkey. Article 10 of the Constitution recognized the same fundamental rights and freedoms between Turkish citizens and foreigners. However, political rights and the right of foreigners to join the public service were restricted in articles 16, 67 and 68 of the Constitution.

81. Turkey noted that positive discrimination for individuals who required social protection had gained a constitutional basis under the title "Equality before the Law" in the amendment to article 10 of the Constitution.

82. The principle of equality is also enshrined in the Civil Code, the Law on Social Services and Child Protection, the Political Parties Law, the Basic Law on National Education, the Labour Law and the Law on Disabled People. Under article 122 of the Penal Code, economic discrimination on the basis of language, race, colour, sex, political thought, philosophical belief, religion, denomination and other reasons is considered a crime. Article 216 of the Penal Code provides for sanctions against incitement to breed enmity, hatred or denigration. Reference was also made to the Law on the Establishment of Radio and Television Enterprises and Their Broadcasts.

83. Turkey indicated that, in addition to judicial remedies, governmental, administrative and parliamentary remedies were also available to individuals who claimed to be subjected to discrimination. The Human Rights Presidency and a

number of Human Rights Boards at provincial and subprovincial levels were entrusted with the task of receiving, examining and investigating allegations of human rights violations, including claims of racial discrimination. Those bodies also had the task of assessing the results of their examinations and investigations, referring the results to the offices of the public prosecutors or relevant administrative authorities, and following up the results. In that context, the Human Rights Inquiry Commission of the Parliament was also mentioned.

84. Finally, Turkey emphasized that a successful fight against all forms and manifestations of discrimination and intolerance required combined efforts at the national and international levels. In that respect, Turkey indicated that it had been actively engaged in the fight against intolerance and discrimination at both the international and regional levels.

III. Contributions received from non-governmental organizations and the United Nations system

85. The Bahá'í International Community, the Child Care Consortium, the European Network against Racism, Human Rights Watch, the UNESCO Centre of Catalonia, as well as the Office of the United Nations High Commissioner for Refugees, provided contributions to the Special Rapporteur in relation to General Assembly resolution 65/199. The main concerns raised by non-governmental organizations and UNHCR include increased racist violence and crimes against, in particular, ethnic and religious minorities and migrants; the lack of adequate data on such violence and crimes; the use of media, including the Internet, to proliferate and promote racist content; the negative impact of media representation of immigrants and minorities on public opinion; incitement to hatred against religious minorities in official discourse and media; and the reluctance by authorities to identify, investigate and register hate crimes in many European countries.

86. The Bahá'í International Community provided information about incitement to hatred, intolerance and violence on the ground of religion against adherents to the Bahá'í Faith, an unrecognized religious minority in the Islamic Republic of Iran, including incitement to hatred against the Bahá'ís in Iranian media and official discourse, increased violence and intimidation, attacks on Bahá'í cemeteries, discrimination against the Bahá'ís in the fields of employment and higher education, and arbitrary arrests and imprisonment of the Bahá'ís.

87. The Child Care Consortium indicated its commitment to support the fight against neo-Nazism, neo-fascism and other violent and extremist ideologies.

88. The European Network against Racism (ENAR) provided information about manifestations of racism and racial discrimination in Europe, including racist violence and crime. It was indicated that Roma, migrants and Muslim and Jewish communities were, in particular, vulnerable to racism and discrimination to different degrees across the European Union. Racist violence was reported to be on the rise in an ever-growing number of States members of the European Union. With regard to legislation, it was stated that the legal frameworks and remedies were insufficient and ineffective in many European countries. Concerns were raised in relation to the reluctance of authorities to identify, investigate and register hate crimes and the lack of adequate data on such crimes. It was indicated that racist violence and crime

remained underreported, under-recorded and under-prosecuted. With regard to the media and the Internet, concerns were raised in relation to the use of the Internet to proliferate and promote racist messages, the depiction of minority groups in the media, and the use of mainstream media by far right parties. ENAR also provided information about good initiatives from civil society, including providing free legal aid to victims of hate crime organizing, educational activities, collecting data on racist crimes, monitoring racially motivated crimes in stadiums, and establishing national associations of intercultural media.

89. Human Rights Watch provided information concerning racist and xenophobic violence and related intolerance in Italy. It indicated that racist and xenophobic violence had not been identified as a serious issue, and the extent of racist violence in Italy had been underestimated. Racist motivation was seen as an aggravating factor that led to heavier penalties in the criminal law of Italy; however, in practice, that provision had been narrowly interpreted by the courts. Concerns were raised regarding the lack of investigation into racist violence and crimes; the failure of bringing to justice those responsible for racist violence and crimes; the lack of systematic specialized training for law enforcement officials; political and public discourse linking immigrants, Roma and Sinti to crime which had helped to create an environment of intolerance; and the impact of negative portrayal of immigrants and minorities, including Roma and Sinti, in media reporting. It was noted that Italy had recently started collecting data on hate crimes. However, the statistics published on hate crimes remained insufficient.

90. The UNESCO Centre of Catalonia provided information about the current trends of contemporary forms of racism, racial discrimination, xenophobia and related intolerance in Catalonia. Those trends included increased xenophobic contents in public and political discourse; an increase in institutionalized practices of Islamophobia and xenophobia that tended to restrict certain rights of concerned individuals; an increase in manifestations of xenophobia in public opinion and the media; and hostilities and discrimination against members of certain groups or religious communities. They also provided information on best practices, including the promotion of religious diversity, publications and awareness-raising tools to fight against racism, racial discrimination and xenophobia; the establishment of international networks providing platforms to share good practices in promoting religious tolerance and experiences in the fight against racism, racial discrimination and xenophobia; and awareness-raising training for youth to combat racism.

91. The Office of the United Nations High Commissioner for Refugees (UNHCR) provided information about practices of racism, racial discrimination, xenophobia and related intolerance against refugees, asylum-seekers and other persons of concern to UNHCR in Europe, Asia and the Americas. It indicated that the aforementioned individuals often found themselves swept into the broader net of anti-immigrant sentiment and were thus affected by intolerance, discrimination, exclusion and xenophobia. It raised serious concerns about the prevalent climate of intolerance, xenophobia and racism.

92. The UNHCR offices in western, eastern and central European countries had identified xenophobia as one of the key challenges to integration in Europe. It was indicated that practices that contributed to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance in Europe could be categorized into four types. The first type of practice was identified as political

parties with an anti-foreign or xenophobic platform. It was stressed that, in most cases, the impact on the immigration and asylum policy of the far-right political parties often depended on the willingness of the mainstream parties to cooperate. The second type of practice was media reporting and public opinion or attitude. Despite the fact that media could be a positive agent of change, media reports might also reflect the tendencies in society in relation to xenophobia and racism and could be seen as a barometer of those trends. The third type referred to other groups with an anti-foreign or xenophobic and/or racist background. In addition, the fourth type of practice identified was racist or xenophobic incidents, including hate crime. Issues of racism, racial discrimination, xenophobia, hate crimes and other forms of related discrimination were of growing concern to most UNHCR offices. It was highlighted that the increase in the number of racist incidents and the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities was indisputable.

93. With respect to the situation in Asia, it was indicated that relatively few instances of direct manifestations of racism, racial discrimination, xenophobia or related intolerance targeting UNHCR persons of concern had been reported in the region. However, in most countries, there were general shortcomings in relation to the legal framework protecting the rights of asylum-seekers, refugees and stateless persons, which more indirectly affected their access to rights and made them more vulnerable to various forms of abuse.

94. In the Americas region, there was little evidence of certain groups or political movements which specifically targeted refugees and asylum-seekers.

IV. Conclusions and recommendations

95. **The Special Rapporteur is grateful to all States that shared information on their activities undertaken pursuant and relevant to General Assembly resolution 65/199. He also welcomes information provided by non-governmental organizations and the Office of the United Nations High Commissioner for Refugees pertaining to the issues raised in the resolution. Such information is important for the sharing of experiences and best practices in the fight against extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as extremist ideological movements. The Special Rapporteur would like to reaffirm the importance he attaches to the cooperation with Governments and non-governmental organizations in the implementation of his mandate. In this regard, the Special Rapporteur would like to recall Human Rights Council resolution 16/33, in which the Council requested all Governments to cooperate fully with the Special Rapporteur in the discharge of his mandate, including by providing the information requested.**

96. **The Special Rapporteur notes with appreciation the efforts made by States to counter extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements. Based on the information received and as evidenced by the horrifying mass murder in Norway on 22 July 2011, challenges remain which require greater efforts and increased political and legal vigilance from States. Extremist political parties, movements and groups continue to pose major challenges,**

especially with regard to the protection of vulnerable groups of individuals against racist and xenophobic crimes, and the protection and consolidation of democracy and human rights in general. It is crucial that a comprehensive approach based on a solid legal framework that also includes key complementary measures be developed, and that it be implemented in an effective, inclusive and cooperative manner with the involvement of relevant actors.

97. **In their replies, many States indicated that acts of racial discrimination and/or incitement to such acts were prohibited by law. As stated in paragraph 13 of the outcome document of the Durban Review Conference,[1] any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, as should all dissemination of ideas based on racial superiority, hatred or incitement to racial discrimination as well as all acts of violence or incitement to such acts, and those prohibitions are consistent with freedom of opinion and expression. In that regard, the Special Rapporteur calls upon all States to respect the commitments made in the Durban documents. He calls upon States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination to comply fully with their international obligations. According to article 4 of the Convention, States Parties:**

"(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

"(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

"(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."

98. **In their replies, some States informed the Special Rapporteur that racial motivation was considered to be an aggravating circumstance in their domestic law. The Special Rapporteur welcomes such legislative practices. Where such provision does not exist, the Special Rapporteur urges States to introduce into their domestic criminal law a provision according to which committing an offence with racist or xenophobic motivation or aim constitutes an aggravating circumstance allowing for enhanced penalties to prevent and to address in an effective manner the perpetration of racist or xenophobic crimes by individuals and groups of individuals closely linked to extremist political parties, movements and groups.**

99. **As stated in paragraph 81 of the Durban Declaration,[2] "any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the**

[1] See A/CONF.211/8, chap. I.

[2] See A/CONF.189/12 and Corr.1, chap. I.

recurrence of such acts". States have the responsibility of bringing to justice the perpetrators of crimes with racist or xenophobic motivation and of fighting against impunity. In that context, the Special Rapporteur recommends that States should ensure prompt, thorough and impartial investigation of racist and xenophobic crimes, and ensure that those responsible are adequately sanctioned.

100. The Special Rapporteur urges States to pay due attention to victims of racist crimes, whose rights to life and security of person are violated. States should ensure that all victims of crimes motivated by racist or xenophobic attitudes are made aware of their rights and of existent judicial and non-judicial remedies. States should also ensure the full access of victims of such crimes to effective legal remedies, including the right to seek just and adequate reparation for any damage suffered as a result of such crimes. The Special Rapporteur recommends that States ensure that victims of racist or xenophobic crimes are provided with necessary legal, medical and psychological assistance. He reiterates that States should further engage with vulnerable groups that are at particular risk of racist or xenophobic crimes, reduce their fear, restore confidence in law enforcement officers and allow for better reporting of such crimes.

101. In their replies, many States raised concerns regarding the increased use of the Internet to proliferate, promote and disseminate racist ideas by extremist political parties, movements and groups. The Special Rapporteur notes with concern the aforementioned phenomenon. He would like to reaffirm the positive role that the exercise of the right to freedom of opinion and expression can play in promoting democracy and combating racist and xenophobic ideologies. In this respect, the Special Rapporteur calls on States to implement fully articles 19 to 22 of the International Covenant on Civil and Political Rights, which guarantee the rights to freedom of expression, assembly and association and determine the limitations thereto. He also encourages States to use new technologies, including the Internet, to promote the values of equality, non-discrimination, diversity and democracy.

102. With regard to data collection, the Special Rapporteur strongly recommends that States collect ethnically disaggregated data on racist and xenophobic crimes and improve the quality of such data-collection systems. The Special Rapporteur is of the view that data on racist and xenophobic crimes can help States to develop effective policies and programmes to tackle crimes motivated by racist or xenophobic attitudes, to assess and monitor the effectiveness of measures taken, and to review existing legislation when necessary. The collection of such data can also help States to identify the types of offences committed and the characteristics of victims and perpetrators, especially if they are affiliated with an extremist political party, movement or group.

103. The Special Rapporteur takes note that some States indicated in their replies that human rights training has been provided to law enforcement officers. He is of the view that law enforcement agents should be provided with the necessary instructions, procedures and resources to identify, investigate and register racist and xenophobic crimes. In this context, the Special Rapporteur recommends that States further strengthen the capacity of law enforcement

agents and members of the judiciary through adequate and mandatory human rights training, with a focus on crimes motivated by racist or xenophobic attitudes.

104. Many States mentioned in their replies that awareness-raising activities have been undertaken to address issues related to practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance. In this respect, the Special Rapporteur reiterates that concrete steps should be taken to raise public awareness about the adverse effects of the ideologies and activities of extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements. The Special Rapporteur welcomes the organization of cultural events, festivals, conferences, seminars, competitions, exhibitions, research work and publications, as well as information campaigns and other events, aimed at providing a space for intercultural dialogue and interaction. They can been seen as further positive measures which contribute to the building of a society based on pluralism, tolerance, and respect for cultural diversity, multiculturalism and non-discrimination. The Special Rapporteur emphasizes that education, including human rights education, is a key tool in countering the rise of extremist political parties, movements and groups. Education is undoubtedly the most effective instrument to dismantle pervasive social constructs based on racial differentiation and to create a society based on pluralism, tolerance and respect towards other communities at an early age.

105. Preserving and consolidating democracy is essential to effectively prevent and combat racism, racial discrimination, xenophobia and related intolerance. In this regard, political leaders and political parties must strongly condemn all political messages that disseminate ideas based on racial superiority or hatred, incitement to racial discrimination or xenophobia. Political leaders and political parties should be aware of the moral authority that they bear, promote tolerance and respect, and refrain from forming coalitions with extremist political parties of a racist or xenophobic character. Respect for human rights and freedoms, democracy and the rule of law must always be the cornerstone of any programme or activity developed by political parties, while they bear in mind the need to ensure that the political and legal systems reflect the multicultural character of their societies at all levels.

106. Some States also provided information about their engagement with regional human rights institutions and mechanisms. The Special Rapporteur welcomes and encourages such cooperation at the regional level. Regional human rights mechanisms play a valuable role in the struggle against racism, racial discrimination, xenophobia and related intolerance, as stated in paragraph 119 of the outcome document of the Durban Review Conference.[1]

107. The Special Rapporteur emphasizes that it is crucial to identify and share good practices achieved at the national, regional and international levels to counter extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements. Efforts made by States should be enhanced through the replication of good practices. In this regard, it is important that the sharing of good practices among all relevant stakeholders be increased. As stated in paragraph 49 of the outcome document of the Durban Review Conference,[1] a broad sharing of best practices

in all regions of the world, aimed at preventing, combating and eradicating racism, racial discrimination, xenophobia and related intolerance, can assist Governments, parliaments, the judiciary, social partners and civil society with the effective implementation of the provisions of the Durban Declaration and Programme of Action.

108. Finally, the Special Rapporteur would like to recall the importance of cooperating closely with civil society and international and regional human rights mechanisms to effectively counter extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements. The Special Rapporteur emphasizes in particular the important role played by civil society in collecting information, working closely with victims and promoting democratic principles and human rights. The Special Rapporteur also calls upon national human rights institutions to develop appropriate programmes to promote tolerance of, and respect for, all persons and all human rights, and to combat extremism.